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COMMITTEE AGAINST TORTURE

Twenty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 509th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 2 May 2002, at 3 p.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.509/Add.1.

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Second periodic report of Uzbekistan (continued) (CAT/C/53/Add.1)

1. At the invitation of the Chairman, the members of the delegation of Uzbekistan took places at the Committee table.

2. Mr. SAIDOV (Uzbekistan), replying to the questions asked by members of the Committee at its 506th meeting, said that his delegation would try to respond to as many as possible of the over 100 questions asked and would provide answers in writing on some of the more complicated issues at a later stage. His delegation also welcomed the three alternative reports submitted to the Committee by Uzbek non-governmental organizations (NGOs). His Government, having worked with international bodies to establish a large network of NGOs in the country and to provide training programmes for them, underscored its readiness to cooperate with them.

3. His Government had expressed its determination to work towards establishing an independent judiciary and, in fact, the recommendations made by the Committee after his country's initial periodic report had led to a revision of the law governing court proceedings, which had been guided by international legal principles on the independence of the judiciary. Under the Courts Act, the court system had separate civil and criminal divisions, enabling judges to act more professionally. Article 112 of the Criminal Code stated the principle of the independence of the judiciary, under which judges must resolve all cases on the basis of the law alone. Any outside pressure on judges was punishable by three to five years' imprisonment under article 236. Whereas judges had previously been appointed for life, the 1992 Constitution stipulated that they were to be appointed for five years by the President, acting in his capacity as head of State. Experience had shown that an indefinite term of office had sometimes led judges to act in ways that abused their office. In the course of the constitutional reforms begun in January 2002, Parliament would be reviewing the operations of the executive, judicial and legislative branches, and the delegation would take care to inform it of the Committee's preference for life terms for judges.

4. It was true that there was no definition of torture as such in Uzbek law, but the law did cover the whole spectrum of acts, both physical and psychological, which constituted torture and which were each subject to severe penalties, laid down exhaustively in article 43 of the Criminal Code. The crimes dealt with in articles 104, 105, 110, 119 and 132 of the Code included harassment, beating, causing grievous bodily harm, making death threats, and the like. It was therefore felt that, cumulatively, those articles fully developed the concept of torture and ensured full compliance with the Convention. Nevertheless, a group of scholars reporting to the Ministry of Internal Affairs had submitted a request to Parliament for a revision of article 1 of the Criminal Code that would include a general definition of torture.

5. Acts of torture committed by persons who were not public officials were also punishable under the Criminal Code, as were accomplices to such acts, as specified in article 4 of the

Convention. Persons not public officials who were arrested for committing a socially dangerous act that involved torture were brought to account as if they had committed an act against a person. Acts involving torture committed by public officials were generally qualified as crimes against the person and also as abuse of office. Neither the Convention nor Uzbekistan's Criminal Code contained a definition of attempted torture, but such an act would fall under article 25 of the Criminal Code, which dealt with attempts to commit crimes with physical or psychological effects on a person.

6. The appeals procedure had been instituted in Uzbekistan in 2001. It was currently possible for the defence counsel in criminal or civil proceedings to appeal a sentence at the request of the person convicted or his/her representative; and public prosecutors, whether or not they had participated in the proceedings, could also challenge a sentence. Sentences not yet in force were appealed in municipal or regional courts. Appeals had to be filed with the court which had handed down the sentence within ten days of sentencing and were passed on to the appeals court. Extensions of that deadline could be applied for and granted by a higher court.

7. The system in effect for handling claims for injury or damage sustained while under arrest or in detention - which involved a combination of criminal and civil proceedings - had been found more effective in ensuring just and adequate compensation to the victims than simply the filing of civil suits, and compensation could include material compensation or restitution of confiscated property. The relevant provisions of the Code of Criminal Procedure needed to be developed further in order to protect the rights of the victims and also to avoid a drain on Government funds.

8. Government bodies had a constitutional responsibility to provide effective legal aid to the public and legal advisers had consequently been made available in Government offices and at worksites; legal aid could also be sought from the Office of the Human Rights Commissioner (Ombudsman) or the National Centre for Human Rights.

9. The conditions of detention were governed by articles 136 to 149 of the Criminal Code. The conditions for death-row prisoners were much stricter but, although they were held in isolation, they too retained their civil, legal and family rights and could receive legal aid, receive and send letters, receive short visits from their families or members of the clergy and receive medical care. After being sentenced to death, they could appeal for clemency under procedures prescribed by the law. The death sentence could be imposed for grievous crimes such as premeditated murder or terrorism on persons between the ages of 18 and 60. The punishment was usually death by firing squad, which took place in private, with a public prosecutor and a certifying doctor present. A death certificate had to be issued under article 140 of the Criminal Code and the execution must be announced within three days. The place of burial was not disclosed.

10. Persons convicted of lesser crimes were entitled to receive full information regarding the arrangements for serving their sentences and to use their own languages in making complaints or appeals to prison authorities and other officials, although the replies received could be in the official language of the State. Any disciplinary proceedings were carried out by the bodies responsible for enforcing the sentence.

11. As for the amount of time spent in police custody, changes had been introduced into the Code of Criminal Procedure to reduce the time a person might be detained to a maximum of one year. Pre-trial detention could be extended to nine months only and then only under exceptional circumstances with the approval of the Procurator of the Republic, based on the severity of the crime or the difficulties encountered in the investigation. The new provisions represented a further mechanism for ensuring legality and guaranteeing citizens' rights in the event of detention.

12. With regard to the inspection of places of detention, a system had been set up involving the Office of the Procurator of the Republic, a parliamentary committee, the Office of the Human Rights Commissioner (Ombudsman) and NGOs. The monitoring was actually carried out by the Ombudsman. Since the new Code had come into force, the Ombudsman had noted that much had been done to comply with new legal provisions relating to prison conditions, such as improving the food supplied, providing better access to telephones, allowing inmates to receive post, packages and money and improving medical supplies and educational facilities. However, it had been found that there was still room for improvement with regard to medical treatment and food, and work was under way in that area. Another shortcoming noted by the Ombudsman was the State's lack of control over members of the prison staff, which resulted in violations of prisoners' rights, lawlessness, lack of humanitarianism and differentiation of penalties. Other problems were overcrowding, insufficient material and technical infrastructure, lack of educational facilities and the fact that prisoners were unable to do useful (remunerated) work. There was also a need to improve the training of the prison staff.

13. During the inspections, interviews had been held with about 100 inmates and methods had been worked out of improving the penal system. Since 1999, much work had been done to bring institutions up to international standards such as the addition of 850 places in Uzbek penitentiaries, provisions for shorter or longer visits and a number of technical facilities. In general, cells currently met sanitary standards and had proper lighting and ventilation. It had been noted that, although visits were in theory allowed by the Penal Code, in practice there were very few, and a specific recommendation had been made to the penitentiaries administration to remedy that situation.

14. Mr. GALIAKBAROV (Uzbekistan), answering the question concerning a system of practical education for prison staff, said that, in 2000-2001, the National Centre for Human Rights and the Organization for Security and Cooperation in Europe (OSCE) centre in Tashkent had organized training sessions on criminal procedure and law enforcement for legal representatives from the national security services, the Ministry of Internal Affairs, the Ministry of Justice and their regional departments. Each of Uzbekistan's 12 regions was entitled to send three to four representatives from their services and a total of 450 people would take part over a two-year period. Each course lasted three days, the first day being devoted to theory on international standards in criminal procedures, the second to the exchange of experience among the participants while, on the third day, the participants undertook role playing as the practical part of the session. Thus, a real basis had been created in Uzbekistan for retraining legal representatives from governmental bodies involved in law enforcement.

15. In 2002, his Government and the OSCE intended to complete the establishment of the system. In each of the departments indicated, there was an educational section where young

recruits and civil servants already working in ministries and wishing to improve their qualifications could receive instruction. One example was an academy, set up under the Ministry of Internal Affairs, which had opened a centre for the theory and practice of human rights offering courses on general human rights theory, discipline and the activities of internal services. The academy also studied the freedoms of individuals and the responsibilities of governmental bodies dealing with law enforcement and had taken steps to increase public awareness, legal culture, citizenship and patriotism.

16. Programmes had also been set up at the Ministry of Internal Affairs Institute where students learned about human rights-related subject areas. For example, they discussed the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its two Optional Protocols, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the 1949 Geneva Conventions and their Additional Protocols and various codes of conduct and rules on the use of force for law-enforcement agents. Practical courses were also being held within the National Security Service and at the Higher School under the Procurator-General's Office. With the assistance of the OSCE, Uzbekistan intended to begin training its own trainers who would be certified by international experts and once qualified, would hold training courses in the various ministries and departments.

17. A member of the Committee had asked how the Government of Uzbekistan intended to train its medical personnel in prisons and it was hoped that some results would be achieved in that area before the submission of the third periodic report.

18. A National Centre for Human Rights had been set up in Uzbekistan on 31 December 1996. Its main duties were to draw-up a National Plan of Action for applying the Constitution and international standards; to develop cooperation between Uzbekistan and national and international organizations in the form of programmes and jointly organized workshops and conferences on human rights; to prepare national reports on human rights matters and submit them to international organizations; to provide administrative services to organizations and public bodies relating to human rights; to provide teaching materials on the protection of human rights in Uzbekistan; to draw up recommendations for government bodies and improve their respect for human rights in general. A further task was to devise a strategy for creating a legal awareness of human rights issues among the people of Uzbekistan by distributing literature, arranging television and radio programmes on human rights and publishing a human rights journal. The Centre also liased with NGOs and other independent human rights bodies.

19. The main thrust of the Centre was educational and it distributed a great deal of information on human rights and was developing contacts with other human rights centres. The Centre also served as a reference point for international standards and norms. Since 1996, it had issued some 50 publications, including a children's version of the Universal Declaration of Human Rights in English, Russian and Uzbek. The Centre had two volunteer legal advisors to whom citizens could make complaints.

20. With United Nations support, the Centre had set up its own human rights library which currently consisted of over 3,000 volumes including a number of journals and periodicals and an

electronic catalogue covering most legislation in force in Uzbekistan and international law. The Centre produced its own journal entitled Democratization and Human Rights - 12 issues had already been published in the country in Uzbek, Russian and English. It was also currently drawing up in Uzbek a compendium of United Nations declarations, translating the Geneva Conventions with the assistance of the International Committee of the Red Cross (ICRC) centre in Tashkent and working with the OSCE to draw up 10 documents on the human dimension of human rights.

21. Mr. SAIDOV (Uzbekistan), replying to a question about the expulsion or return (refoulement) of persons who might be subject to torture, referred the Committee to paragraphs 78-83 of the report. On the use of bail as an alternative to prison, he referred to paragraphs 57-58 and 63-64 of the report.

22. An analysis of the complaints received by the Office of the Human Rights Commissioner (Ombudsman) had revealed persistent gross violations of articles 26 and 116 of the Constitution (which covered presumption of innocence and the citizens' right of defence); perfunctory disposal of cases by the courts, often with overreliance on the case for the prosecution; extortion by law-enforcement officers; use of unlawful methods, including torture, by law-enforcement officers; and cases in which officials had taken unfair advantage of people's legal illiteracy.

23. Among the reasons for those shortcomings were the lack of training of the law-enforcement officers, compounded by cynicism, bureaucracy and a sense of impunity; inadequate procuratorial and judicial supervision of legal and procedural compliance; and a failure to apply the principle of the primacy of international law over domestic law and practice. Recent cases, however, suggested that a change in attitude had taken place. In January 2002 four internal affairs (police) officers had each been sentenced to 20 years' imprisonment in a case involving coercion to testify, abuse of authority, unlawful deprivation of liberty and premeditated homicide. In October 2001, three other individuals had each been sentenced to six years' deprivation of liberty for unlawfully remanding a person in custody.

24. His authorities agreed with the Committee that medical officers in prisons required special training to enable them to identify signs of torture and that the training of law-enforcement officials should be better targeted and more differentiated. The texts of international human rights instruments, which had been simply unavailable under the Soviet regime, had since been published in Uzbek and widely disseminated. In addition, technical assistance was to be sought from the Office of the High Commissioner for Human Rights (OHCHR) and his Government would redouble its efforts to meet future reporting deadlines.

25. On the other hand, his Government noted with concern that the Committee appeared to give undue credence to reports submitted by NGOs. Equal weight should be given to all sources of information. More specifically, his Government was distressed to see that a programme involving the relocation of certain inhabitants of Surkhan-Darya had been characterized as genocide. His Government had given a full account of that episode on the occasion of the initial report of Uzbekistan to the Human Rights Committee, when it had explained that the total number of persons affected was just 1,333, not the tens of thousands alleged by certain NGOs. The reasons for the relocation had not been properly appreciated either: those people had been removed for their own safety, since they could easily have been taken hostage by Islamic

fundamentalists, allies of Osama bin Laden, from neighbouring Tajikistan. After relocating them to a different area, his Government had taken great pains to provide them with accommodation, schools and hospitals.

26. Full written replies to all the questions by members of the Committee would be submitted at a later date.

27. Mr. YAKOVLEV, speaking as Country Rapporteur, said that the delegation's replies had been most illuminating and had clarified many points. Nevertheless, he would have liked to hear more about safeguards against abuses committed during administrative, as opposed to criminal, proceedings. Moreover, the delegation had not made it clear whether registers of detainees or prisoners were kept at places of detention.

28. Ms. GAER, speaking as Alternate Country Rapporteur, said that she had been most impressed by the Uzbek Government's receptiveness to and enthusiasm for input from NGOs. It was all the more puzzling, therefore, to learn that only three human rights NGOs were officially licensed in the country. Why so few? It would be useful to have more statistics about new inmates in places of detention, categorized by offence. While it was true that recent trials of torturers could be seen as a turning point, it was equally important that the verdicts and sentences be given wide publicity in the national media. It was not clear whether that had been done. Did the human rights texts used in police training mention international human rights instruments? And did the Soviet practice of performance review (attestatsiya) still apply in the law-enforcement agencies? If the answer was in the affirmative, it could be an effective tool for weeding out recalcitrant or incorrigible personnel. The State party should clarify whether it guaranteed detainees' and prisoners' freedom of religion. In Uzbekistan, who exactly had the power to authorize pre-trial detention, the procurators or the courts, and had any changes occurred in those arrangements?

29. Mr. MAVROMMATIS said that he was not satisfied by the reporting State's comments on the independence of the judiciary. The executive branch, i.e. the President, should never appoint judges; at the very most the President should merely rubber-stamp the recommendations or decisions of an independent body. The written replies promised by the delegation should furnish more details, and also expand on points such as the dismissal, transfer and security of tenure of judges and their immunity from prosecution. It had been suggested that the Committee attached undue importance to the views of NGOs. While it was true that NGOs were at liberty to submit any material they wished to the Committee, the latter never formed an opinion without hearing the State party's views.

30. The CHAIRMAN asked whether registers of detainees or prisoners at places of detention were available for public inspection, on the assumption, of course, that such registers existed.

31. Mr. SAIDOV (Uzbekistan) said, in response to the question regarding administrative detention in Uzbekistan, that the Administrative Liability Code was currently being revised, and that would preclude the use of administrative detention as a means of obtaining confessions.

32. With regard to the issue of a register of detainees, he confirmed that such a register was in fact being compiled.

33. Turning to the issue of NGOs, he said that his Government maintained good contacts with all such organizations concerned with human rights and considered them an important channel for ascertaining the views and problems of ordinary people. While there were currently no more than 10 human rights NGOs operating in the country, he was sure that their number was increasing and that many more would be mentioned in the country's next periodic report.

34. On the issue of training, he assured the Committee that the texts of the various conventions were not only covered in training courses but were actually circulated and that, from 2003 onwards, the Committee's conclusions and recommendations would also be included in the training materials.

35. The procedure for reviewing the performance of judges was still in force and took the form of a system of tests, including a substantial number of questions relating to the human rights instruments to which Uzbekistan was a party. Efforts would be made to ensure that more questions were devoted to the Convention against Torture.

36. With regard to the question on the right to freedom of conscience in detention facilities, he said that, in principle, there were no restrictions on detainees' right to profess and practise their religion but he would make further inquiries in that regard and inform the Committee accordingly.

37. In Uzbekistan, authorization for pre-trial detention was granted exclusively by the Procurator of the Republic without the involvement of the courts. Although no complaints had been lodged against that procedure, consideration was being given to transferring the authority from the Ministry of Internal Affairs to the Ministry of Justice and a study was being made of experience in other countries of the Commonwealth of Independent States (CIS).

38. With regard to the procedure for the appointment of judges, he pointed out that while, technically speaking, they were appointed by the President, they were actually selected by a committee on the basis of an examination procedure and the selection was then approved by the President.

39. In response to the question regarding the publication of lists of detainees, he assured the Committee that, following the presentation of the country's initial report, detailed statistics on detainees had been published in the press and the practice would continue.

40. In conclusion, he stated that his delegation's dialogue with the Committee had been very satisfactory and assured the members of the Committee that the outcome would be fully covered in the Uzbek media.

The public part of the meeting rose at 5.15 p.m.